

REMARKS

Claims 1-11 were pending in this application, with Claim 1 being independent.

Summary of Amendments	
Claim(s)	Change
2-4, 7-11	Amended
-	Withdrawn
1	Cancelled
12-19	Added

SUMMARY OF SUPPORT FOR NEW CLAIMS AND AMENDMENTS		
Claim	Amendments (summarized)	Support ¹
7, 8	WE43 composition	Magnesium Elektron UK document submitted herewith
9	polyethylene terephthalate	Corrected spelling
1 [12]	first and second ends	Fig. 1, 0033
	first coating	Fig. 1 (#20.1)
	second coating	Fig. 1 (#20.2)
	third coating	Fig. 1 (e.g., #22.1, 22.2, 24) 0037
	wherein the first and second coatings degrade at a different rate than the third coating	0035, 0037
	New Claims	
12	first and second ends	Fig. 1, 0033
	first coating	Fig. 1 (#20.1)
	second coating	Fig. 1 (#20.2)
	third coating	Fig. 1 (e.g., #22.1, 22.2, 24) 0037
	wherein the first and second coatings degrade at a different rate than the third coating	0035, 0037
13		0037-44
14		0052-0058
15		Fig. 2b, 0054
16		Fig. 3a, 0016, 0055-0056
17		Fig. 3b, 0057
18		0024
19		Fig. 1, 0033, 0037

¹ All cites to the specification for support are exemplary only and are not intended to be an exhaustive listing of all instances of support.

ARGUMENTS

Applicant has cancelled Claim 1 and submits new Claim 12. The claims depending from Claim 1 have been amended to depend from new Claim 12. No new matter has been added.

Regarding the rejections under Section 112, Applicant respectfully submits that WE43 is a known material having a composition known to those skilled in the art. Applicant submits herewith a brochure of Magnesium Elektron UK describing its patented WE43 material, including (see page 2) the chemical composition. Applicant has amended Claims 7 and 8 to include reference to the chemical composition stated in the product description.

Tormala teaches modification of the implant base material itself to create degradation zones. Tormala does not disclose, teach or suggest forming coating on the base material wherein the coating has different degradation zones. Thus, Tormala must design and manufacture every implant material with a specific degradation profile. In comparison, the presently claimed implant adjusts degradation by manipulation of the coating. An advantage of the presently claimed implant is that one can use any of a number of pre-designed or pre-manufactured implants, and adjust the degradation characteristics by changing the way the coating is applied.

Tormala does not teach creation of structures having coatings with non-progressive degradation profiles. By “non-progressive”, it is meant that the profile does not progress in a straight-line manner. As shown in the graphs in Fig. 7 of Tormala, all the degradation curves have a profile in which degradation progressively increases either continuously as a smooth curve, or progressively increases continuously as a step function. One could not adapt the teaching of the implant base material structure in Tormala to create the presently claimed implant coating structure having a non-progressive degradation profile. Tormala teaches creation of continuous gradient zones of the stent base material by tapered wall thickness (Figs. 1-2d [Example 1]), holes of diminishing sizes in a gradient of rings to reduce volume of wall material (Fig. 3 [Example 2]), or portions of the tube having been prehydrolyzed (Figs. 4-5 [Example 3]). The resulting stents all have degradation profiles in which the “degradation speed of the implant is highest at its first end and the degrading speed is retarding when travelling from the fast-

degrading end towards the slow-degrading end in the direction of the longitudinal axis of the implant” (Tormala at p. 5, l. 18-23).

None of the structures or methods of formation relating to the base material of Tormada would enable or motivate one of ordinary skill in the art to adapt them to create a coating which would provide the presently claimed implant and associated characteristics.

Claims 1-7, 9 and 10 are rejected under 35 USC 103(a) as being unpatentable over Tormala in view of Steinke. Claim 1 has been cancelled and Claim 12 is now presented in its stead. Steinke is cited as disclosing polymer coating of metallic stents. One of ordinary skill in the art would not have been able nor motivated to combine the polymer coatings of metallic stent materials with the progressive degradation zones of Tormala (as discussed above) to create the presently claimed implant having non-progressive degradation zones as recited.

Claim 8 is rejected under 35 USC 103(a) as being unpatentable over Tormala in view of Steinke and further in view of Andersen. Anderson is cited as disclosing iron as a stent body material. One of ordinary skill in the art would not have been able nor motivated to combine the teachings of Tormala and Steinke with the iron stent body of Anderson to create the presently claimed implant having non-progressive degradation zones as recited.

Claim 11 is rejected under 35 USC 103(a) as being unpatentable over Tormala in view of Steinke and further in view of Pinchuk. Pinchuk is cited as disclosing porous coating materials. One of ordinary skill in the art would not have been able nor motivated to combine the teachings of Tormala and Steinke with the porous coating of Pinchuk to create the presently claimed implant having non-progressive degradation zones as recited.

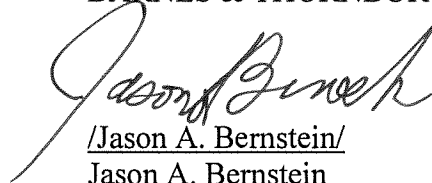
New Claims 13-19 depend from Claim 12. Support is indicated in the table set forth hereinabove.

CONCLUSION

Applicant submits that the present application is in condition for allowance and respectfully requests such action. If the Examiner has any questions that can be answered by telephone, please contact the undersigned attorney of record at the telephone number listed below. It is requested that, if necessary to effect a timely response, this paper be considered a Petition for an Extension of Time sufficient to effect a timely response with the fee for such extensions and shortages in other fees being charged, or any overpayment in fees being credited, to the Account of Barnes & Thornburg LLP, Deposit Account No. **50-4913**.

Respectfully submitted,

BARNES & THORNBURG LLP

A handwritten signature in black ink, appearing to read "Jason A. Bernstein", is written over the printed name.

/Jason A. Bernstein/

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